

This letter describes the importance of the customer's service address for application of State and municipal telecommunications taxes. See 35 ILCS 630/2(n) and 35 ILCS 636/5-7. (This is a GIL.)

May 2, 2003

Dear Xxxxx:

This letter is in response to your letter dated December 23, 2002. We apologize for the delay in responding to your inquiry. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I am inquiring as to the proper way to tax long distance phone service concerning municipalities. On the Illinois department of revenue web site it says 'Effective August 1, 1985, a tax is imposed on intrastate and interstate telecommunications (i.e., those that originate or terminate in Illinois and are billed to a service address in Illinois). If I have a customer who has a branch in Illinois that makes long distance calls from Illinois phone numbers, but the bill is sent to corporate in Wisconsin; should I bill them the municipal Illinois excise tax?

Please call or write back. Thank you.

DEPARTMENT'S RESPONSE:

In reference to municipal telecommunications taxes, the Department did not administer municipal telecommunications taxes at the time your letter was written. Prior to January 1, 2003, municipal telecommunications type taxes were administered by the municipalities that imposed those taxes and we have no authority to provide interpretations of those taxes. However, the Department will begin collecting the Simplified Municipal Telecommunications Tax beginning with bills issued on and after January 1, 2003. The Simplified Municipal Telecommunications Tax is imposed in the same manner and on the same tax base as the State's Telecommunications Excise Tax. Both taxes apply to interstate and intrastate telecommunications.

It is a bit confusing, but both taxes are imposed on the act or privilege of originating or receiving intrastate and interstate telecommunications at the appropriate tax rate on the gross charges for those telecommunications. "Gross charges" are defined as the amount paid for the act or privilege of originating or receiving telecommunications in such municipality and for all services and equipment provided in connection therewith by a retailer . . ." The term "amount paid" means the amount charged to the taxpayer's service address in such municipality regardless of where such amount is billed or paid. See 35 ILCS 630/2(b) and 35 ILCS 636/5-7. Both the Simplified Municipal Telecommunications Tax Act and the State's Telecommunications Excise Tax Act define service address as:

"Service address" means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent. 35 ILCS 630/2(n) and 35 ILCS 636/5-7.

Under the Mobile Telecommunications Sourcing Conformity Act, only those charges for mobile telecommunications that are billed to the customer's "place of primary use" in Illinois by the customer's home service provider may be subject to tax in Illinois. 35 ILCS 638/20.

You may use the above information to determine if your company should be collecting the Simplified Municipal Telecommunications Tax and the State's Telecommunications Excise Tax on the customer referenced in your letter. Based upon the very limited information contained in your letter, we believe that you should be collecting the State's Telecommunications Excise Tax and any Simplified Municipal Telecommunications Tax that may be imposed where your customer's service address is located. To determine the proper telecommunications tax rate to collect, please see the Department's Illinois Telecommunications Tax Rate Reference Manual which can be viewed on the Department's Internet website described below. Please note that the rates for municipalities listed in that reference manual are the combined rates (State and local) for those municipalities.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

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TDC:msk